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International Court of Justice

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FINAL ARGUMENT FOR THE UNITED STATES OF AMERICA

on the Indicted Organizations

(Reich Cabinet; Political Leadership Corps;
S.S.; S.D.; Gestapo; S.A.)

Before

The International Military Tribunal

By

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Nurnberg, Germany
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Mr. President:

Since the 20th day of November, 1945, this International Military Tribunal has been in almost continual session. In these many months, a record of more than 15,000 pages has been compiled. Over 300,000 affidavits have been submitted, about 3,000 documents have been offered and oral testimony has been heard from some 200 witnesses.

This great mass of evidence, oral and written, almost exclusively of German origin, has established beyond question the commission of the crimes of criminal conspiracy, aggressive war, mass murder, slave labor, racial and religious persecutions and brutal mistreatment of millions of innocent people. The four prosecuting powers have indicted and hold responsible for these frightful crimes as individuals the twenty-two defendants named in the Indictment.

But the four prosecuting powers recognizing that the twenty-two individual defendants could not by themselves alone accomplish the execution of these enormous crimes, have also named in the Indictment the Nazi organizations, as the principal media, by and through which these transgressions were effected. These organizations -- some Nazi-created, some Nazi-perverted -- were the agencies upon which the defendants relied and through which they operated for the accomplishment of their criminal purposes over the complacent people of Germany and over the conquered peoples of Europe.

The named organizations fall into two classes, In the first class are those which are peculiarly Nazi creations, having no counterpart outside the Nazi regime and which had no intrinsically legitimate purpose. This group includes the Politische Leiter, the SA and the SS. In the second class are those which existed in one form or another before the Nazi regime but which were corrupted by the Nazis.

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This group includes the Reich Cabinet, the High Command and General Staff, and the Gestapo. As to this second class, it is not our contention that the Institutions themselves were basically criminal, but rather that they became criminal under Nazi domination. Although, by its very nature as a secret political police system, the Gestapo was the most easily adapted to criminal purposes and became one of the most effective of all instruments of Nazi criminality.

It would be a mistake to consider these organizations named in the Indictment, as isolated, independently functioning aggregations of persons, each pursuing separate tasks and objectives. They were all a part of, and essential to, the police state planned by Hitler and perfected by his clique into the most absolute tyranny of modern times. That police state was the political Frankenstein of our era, which brought terror and fear to Germany and spread horror and death throughout the world. The Leadership Corps of the Nazi Party was its body, the Reich Cabinet its head, its powerful arms were the Gestapo and the SA, and when it strode over Europe its legs were the armed forces and the SS. It was Hitler and his cohorts who created this police-state-monster, and it brought Germany to shame and the nations of Europe to ruin.

It would likewise be erroneous to view the structure of this police system as something casual or its growth and development as normal political phenomena. For it was planned from the earliest days by the conspirators. The Nazi "old fighters" had a design for despotism. They built the SA at the outset as a private band of strong-arm men to wield the club against the political opponent and the whip against the Jew. They established the SS as the dread guard of the Fuehrer and of themselves. When they seized power they abolished police protection and substituted police

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persecution as the mission of the Gestapo. They wiped out all semblance of free government and set themselves up in the Reich Cabinet with plenary powers. They depraved the highest traditions of military ethics and substituted "willing tools" for ranking men at arms. They obliterated all other political parties and fastened on the German people a political straight jacket in the form of the Leadership Corps.

Deprive the Nazi conspirators of these organizations and they could never have accomplished their criminal aims. Take away the SA and they would have lost the mastery of the streets; take away the SS and they would have had no concentration camp system; take away the Gestapo and they would have had no means of illegal arrest and unlimited detention; take away the Reich Cabinet and they would have had no subservient law-making body; take away the truckling military men and they would not have secretly planned their attacks or ultimately waged their wars.

The provisions of the Charter empowering the Tribunal to declare a group or organization criminal, and the functions of the Tribunal under those provisions, have been dealt with in the legal arguments and memoranda previsously submitted to the Tribunal by the Chief Prosecutors. At that time, 1/ in response to the request of the Tribunal, Mr. Justice Jackson stated the grounds which, in our view, warrant declaring a group or organization criminal.

Before now undertaking to summarize the evidence, it may be well to restate those tests:

1/ Feb. 23, 1946, Tr. pp. 5136-5167

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1. It must be a "group" or "organization" within the meaning of Article IX of the Charter--i.e., it must be an aggregation of persons, associated in some identifiable relationship, having a collective general purpose or pursuing a common plan of action.

2. Membership in the organization must have been basically voluntary, i.e., the membership of the organization as a whole, irrespective of particular cases of compulsion against individuals or groups of individuals within the organization must not have been due to legal compulsion.

3. It must have participated directly and effectively in the accomplishment of the criminal aims of the conspiracy, and it must have committed crimes against the peace or war crimes or crimes against humanity, as charged in the Indictment.

4. The criminal aims or methods of the organization must have been of such character that its membership in general may properly be charged with knowledge of them.

5. Under the Charter the Prosecution must also establish that at least one of the defendants in the dock who is a member of the organization, is guilty of some act on the basis of which the organization may also be declared criminal.

These are the tests of criminality which the American Prosecution has conceded must be met with respect to each organization before a declaration of criminality as to that organization is warranted. My distinguished colleague, Sir David Maxwell-Fyfe, has discussed in his address the evidence against most of the organizations; and the Russian and French Prosecutors will review specific crimes committed by these groups. I shall not discuss the High Command since it is to be the subject of a special argument by a member of the American staff. I shall, with the consent of the

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Tribunal, address my remarks to the general proposition of whether the Prosecution has sustained the burden of proving by competent evidence that each of the named organizations is criminal under all of the principles stated.

I. Each of the Five Organizations is a "Group" or "Organization" as these Terms are Used in the Charter.

The evidence clearly establishes that the five organizations in question are groups or organizations as we interpret these terms in the Charter--that is, each is an aggregation of persons, associated in an identifiable relationship having a collective general purpose.

That the Politische Leiter were an identifiable aggregate, had a common purpose, and functioned as a group, is clear. Ample evidence as to the structure and functions of the Leadership Corps of the Party is to be found in Nazi publications--the Organization Book of the NSDAP, 2/ "der Hoheitstrager", the official magazine of the Leadership Corps, 3/ in the chart of the Leadership Corps, 4/ and a chart of the Party itself. 5/ This group some 600,000 strong had special uniforms, carried special membership cards

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2/ Doc. 1893-PS, USA 323, Tr. p. 1578
3/ Doc. 2660-PS, USA 325, Tr. p. 1595
4/ Doc. 2833-PS, USA 22, Tr. p. 1577
5/ Doc. 2903-PS, USA 2, Tr. p. 254

enjoyed countless special privileges. 6/ The term "Politische Leiter" is not one we have invented for the purpose of giving an appearance of cohesion to a number of unrelated individuals performing similar, but uncoordinated functions in the Party. The Organization Book of the Party itself deals with all these Party workers as a unit under the designation "Politische Leiter". 7/ It shows the hierarchical structure in which they were organized and the manner in which directives were passed down automatically through the chain of command to the lowest level and were carried into effect by all members of the group. It shows further that in the functioning of this corps, the Leadership principle reached perfection. All Party workers were bound by identical oaths to unconditional obedience to the Fuehrer and to all leaders appointed by him. 8/ At each level, regular and frequent conferences were held and the higher and lower levels met together periodically for discussions of policy. 9/ The Leadership Corps constituted a perfect pyramid in which every stone at every level was necessary to maintain the whole structure. It had one single, common purpose--the maintenance of the organization and ideology of the Nazi Party.

The Indictment defines the "Reichsregierung" (Reich Cabinet) as consisting of three classes of persons: (1) members of the ordinary cabinet after 30 January 1933; (2) members of the Council of Ministers for the Defense of the Reich; and (3) members of the Secret Cabinet Council. These three classes together make up the group of 48 members which we are prosecuting under the designation

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6/ Doc. 1893-PS, USA 323, Tr. p. 1593 et seq

7/ Doc. 1893-PS, USA 323, Tr. p. 1578

8/ Doc. 1893-PS, USA 323, Tr. p. 1597/8

9/ Doc. 1893-PS, USA 323, Tr. p. 1602/3

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"Reichsregierung". Each of these, taken by itself, constitutes an identifiable aggregate working toward a common end. The ordinary cabinet of any government is as clear an example of a group as could be found. The ordinary cabinet of the Nazi Reich did not differ in that respect from similar institutions in other governments. It met frequently as a cabinet in the early days of the Nazi regime, 10/ and when meetings thereafter became uncommon, it continued to function as a group in passing on decrees and laws through the procedure of ciruclating drafts of proposed enactments to all its members. 11/ An example of this procedure is before the Tribunal in the form of of a memorandum from the Defendant Frick to the Chief of the Reichs Chancellory. 11a/ The same cohesion and unified function is found in the Council of Ministers for the Defense of the Reich, which was established in 1939. Like the ordinary cabinet, its members consulted together in actual meetings as shown by the minutes of such meetings in September, October, and November, 1939. 12/ And, like the ordinary cabinet, it also functioned by using the circulation procedure, a typical instance of which is the letter from Dr. Lammers 17 September, 1939, to members of the Council of Ministers for the Defense of the Reich. 13/ The Secret Cabinet Council, an advisory body on foreign policy, consisting of eight members, was an identifiable unified aggregation as appears from the decree which created it. 14/ The inclusion of these three classes under the single designation "Reichsregierung" is not an attempt to create an artificial relationship among three separate and independent entities. Actually, the three were collectively as much a group

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10/ Doc. 351-PS, USA 389, Tr. p. 1692
11/ Doc. 2999-PS, USA 391, Tr. p. 1703
11a/ Doc. 1701-PS, USA 392, Tr. p. 1704
12/ Doc. 2852-PS, USA 395, Tr. p. 1706
13/ Doc. 1141-PS, USA 393, Tr. p. 1705
14/ Doc. 2031-PS, GB 217, Tr. p. 1698

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as each was independently, for the Council of Ministers for the Defense of the Reich and the Secret Cabinet Council were really committees formed out of the ordinary cabinet. The decrees creating these two committees 15/ demonstrate that the entire personnel was composed of individuals who were in the ordinary cabinet. Not only in the personnel, but in action, functions, and purpose as well, the ordinary cabinet and its committees were unified. Members of the ordinary cabinet who were not members of these committees were nevertheless present at meetings of the Council of Ministers, as shown by minutes of such meetings, 16/ and, under the circulation procedure, received drafts of decrees prepared by the Council of Ministers. 17/ This aggregation -- the cabinet and committees formed of some of its members -- had a single collective purpose, that of governing the Reich in such a fashion as to carry out the schemes of the Nazi conspirators.

The SA, which was created in 1920, is one of the simplest examples of the type of group or association contemplated by the provisions of the Charter. It was defined by a German law 18/ as a component of the Party, having its own legal personality, and it was characterized by the Nazi Party Organization Book 19/ as a distinct entity. It had an identifiable membership of from 1,500,000 to 2,000,000 members, bound together by common standards, wearing a common and distinctive uniform, having common aims and objectives, and carrying on common activities. The general purpose of the SA, to which the whole membership was devoted, was stated in the Organization Boof of the Party, "to be the bearer of National Socialist armed will," 20/ and, according to the sameParty manual, a member had to withdraw if he no longer

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15/ Doc. 2031-PS, GB 217,
Doc. 2018-PS, GB 250, Tr. p. 1698
16/ Doc. 2852-PS, USA 395, Tr. p. 1706
17/ Doc. 1141-PS, USA 393, Tr. p. 1705
18/ Doc. 1725-PS, Tr. p. 1753
19/ Doc. 3220-PS, USA 323, Tr. p. 1733
20/ Doc. 3220-PS, USA 323, Tr. p. 1767

agreed with the SA views or was not in a position to fulfil completely the duties imposed upon him as a member of the SA.21/

Like the SA, the SS was beyond question a unified organization. It was established by German law 22/ as a component of the Party having its own legal personality. It was described in the Organization Book of the Party 23/ as a "homogeneous firmly welded fighting force....bound by ideological oaths." It had a clearly identifiable membership which rose to about 600,000 toward the end of the war, composed of persons who met the same basic uniform standards of race ideology.24/ Despite its many functions and activities, and its numerous departments and offices and branches, it was an integrated and unified organization and it was, according to Himmler's tirade to the SS Gruppenfuehrers on 4 October, 1943: 25/ "One bloc, one body, one organization". It had of course its own uniform and enjoyed special privileges while pursuing the general purposes of the Nazi conspirators running all the way from neighborhood bullying through political, racial and religious barbarities to the waging of wars of aggression, and the most violent and revolting crimes against humanity.

From its earliest days, the Nazis always regarded that portion of the police forces called the "Gestapo", or Secret State Police, as a separate group, a clearly identifiable aggregate performing a common function. The very purpose of Goering's decree of

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21/ Doc. 2345-PS, USA 430, Tr. p. 1735
22/ Doc. 1725-PS, Tr. p. 1788
23/ Doc. 2640-PS, USA 323, Tr. p. 1812
24/ Doc. 2640-PS, USA 323, Tr. p. 1812
25/ Doc. 1919-PS, USA 170, Tr. p. 1808

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26 April 1933, 26/ establishing the Gestapo in Prussia was to create in that province a single body of secret political police, separated from the other Prussian police forces, an independent force having its own particular task, on whichhe could entirely rely. The same motives led to the establishment of similar identifiable groups of secret political police in other German provinces. The steps by which these groups were allconsolidated into a single secret political police force for the whole Reich are fully detailed in the decrees and laws which have been cited to the Tribunal.27/ When the RSHA, the Reich Main Security Office, was created in 1939 the Gestapo was not dispersed, but became a distinct department of that central office, as shown by the Chart of RSHA introduced in evidence, 28/ and by the testimony of the witnesses Ohlendorf 29/ and Schellenberg. 30/ They easily estimated the number of persons in the Gestapo at from 30,000 to 40,000.

Throughout these proceedings, the Gestapo and the SD have been considered together due to the fact that the criminal enterprises with which each is chargeable were supported, to a greater or lesser degree, by both. The Indictment charges the Gestapo with criminality as a separate and independent group or organization. The Indictment includes the SD by special reference as a part of the SS, since it originated as part of the SS and always retained its character as a Party organization as distinguished from the Gestapo which was a State organization. The SD, of course had its own organization, an independent headquarters with posts established throughout the Reich and in occupied territories and with agents in every country abroad.31/ It had a membership of from 3,000 to 4,000 professionals

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26/ Doc. 2104-PS, Tr. p. 1890
27/ Tr. pp. 1822, 1824, 1891/5
28/ Doc. L- 219, USA 479, Tr. p. 1096
29/ Tr. pp. 2022/3
30/ Tr. p. 2088
31/ Doc. 4043-PS, USA 920, Tr. p. 14928
Doc. 4054 USA 921, Tr. p. 15000

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assisted by thousands ofhonorary informers, known as V-men, and by spies in other lands, 32/ but we do not include honorary informers who were not members of the SS, nor do we include members of the Abwehr who were transferred to the SD toward the end of the war excepting insofar as such Abwehr members also belonged to the SS.

If we ask where the ubiquitous SD man is to be found, the answer is not at all difficult, although some of the testimony and arguments may have been confusing to the Tribunal. Until 1939, the SD man was always to be found in the head office of the SD of the Reichsfuehrer SS or in the various regional offices of the SD throughout the Reich. During that period, the SD was repeatedly identified as a department of the SS in SS organization charts and plans and by laws and decrees issued by the Government. During this period the SD was the political intelligence agency of the SS, the Party, and the State and it provided secret political information to the executive departments of the State and Party, particularly to the Gestapo. After 1939, the SD man is to be found in offices III and VI of the RSHA and in the various regional SD offices within Germany, in the occupied territories, and in the Einsatz Groups of the Security police and the SD in areas close behind the front.

In the course of the argument, some confusion has also arisen over the characterization of the RSHA, AMT VI, Department Eichmann and Einsatz Groups. The RSHA was a department of the SS, and substantially all of its personnel belonged to the SS. It was under command of the SS Obergruppenfuehrer Kaltenbrunner. In addition to the SD which was always

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32/ Doc. 1553-PS, USA 84, Tr. pp. 791; 2088/9

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an SS formation, it included the Gestapo and the Reich Criminal Police, both of which were state agencies. For this reason the RSHA was also carried as a department of the Reich Minister of the Interior. The WVHA was another strictly SS Department. The WVHA was under the leadership of SS Obergruppenfuehrer Pohl who was charged with the administration of concentration camps and the exploitation of the labor of the inmates. There was no Department Eichmann as such. Eichmann was simply the head of the department of the Gestapo which was charged with matters pertaining to the churches and to the Jews. It was this department of the Gestapo which had primary executive responsibility for the rounding up of the Jews of Europe and the committing of them to concentration camps. The Eichmann department within the Gestapo was no more independent of the Gestapo than any other department under Mueller. The Einsatz Groups of the Security Police and SD -- and it is very important that the full title be held in mind at all times -- were the offices of the Security Police and SD operating in the field behind the armies. When police control had been sufficiently established in newly occupied territory, the mobile Einsatz Groups were eliminated and they became regional offices under the commanders of the Security Police and the SD in occupied territories. The Einsatz Groups were a part of the office of the Security Police and SD, the RSHA, and as such were a part of the SS, limited only by the fact that some personnel assigned to the groups were not SS members. In 1939, the main offices of the SD and the Gestapo were consolidated in the RSHA,33/ but the SD at all times preserved its independent identity.

Surely the prosecution has met the requirements of group proof as to these organizations, not only by the standards which it has imposed upon itself but as well by every ordinary rule of reason and experience.

33/ Doc. L-361, USA 478, Tr. p. 1895

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II. Membership in Each of the Five Organizations Was Voluntary.

Membership in the Leadership Corps was indisputably voluntary. No one was compelled to join the NSDAP much less to become one of the leaders of the Nazi Party.34/ We do not doubt that many joined the Leadership Corps for business, social or other selfish reasons. These are the commonplace motives for cheap political prestige but they cannot and do not amount to legal compulsion.

No one was drafted into the Reich Cabinet. Moreover, some of its members resigned when they found themselves in conflict with its aims and objectives. Schlegelberger left because of the infringement of the independence of the judiciary; 35/ Schmitt resigned because he was convinced that Hitler's course was the way to war; 36/ Eltz von Ruebenach

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34/ Comm. Tr. p. 598/9, 5 June 1946
35/ Tr. pp. 15008/9
36/ Doc. 4058-PS, USA 922, Tr. p. 15010

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resigned because of Hitler's policies against the Christian Churches.[37] A place in the Cabinet circle with its titles and tinsel was the high ambition of most of the Nazis. Competition for these places was fierce and any present effort to fend off declaration of criminality against this group with a pretense of membership by force is ludicrous.

So free of compulsion was membership in the SA that the Party Organization Book, as late of 1943, urged SA men to withdraw from the organization if they felt they were unable to agree with the aims and ideology and to fulfill all the duties imposed upon them. 38/ Party members were not forced into the SA lists. The controls and the disciplies imposed on SA members within the framework of the organization have nothing to do with the voluntary character of the membership itself. The willing submission of the SA man to the SA command is not the same thing as compulsory and involuntary entry into the organization.

Applicants for the SS not only were volunteers but in addition they had to meet the strictest standards of selection, as is illustrated in the SS Soldiers Manual, 39/ and by Himmler's insistence on free and voluntary applications for membership as set out in his letter of 1943 to Kaltenbrunner. 40/ The SS characterized itself as an elite and select corps, advertised that it carefully weeded out every applicant who did not conform to its racial, biological, and ideological standards, and made it plain to everyone that unusual qualifications were required for membership. Such in fact was Himmler's boast to the Wehrmacht, "Should I succeed in selecting from the German people for the organization as many as possible who possess this desired blood and in teaching them military discipline and in the understanding of the value of blood and the entire ideology resulting from it, then it would be possible actually to create such an elite organisation as should successfully hold its own in all cases of emergency". 41/

37/ Doc. 1534-PS, USA 402, Tr. p. 1715
38/ Doc. 2354-PS, USA 430, Tr. p. 1735
39/ Doc. 2325-PS, USA 441, Tr. p. 1804
40/ Doc. 2768-PS, USA 447, Tr. p. 1818
41/ Doc. 1992-A-PS, USA 439, Tr. p. 1809

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The "elite" were required to establish Nordic descent. In the case of an officer applicant as far back as the year 1750 and for regular applicants to the year 1800. 42/ In addition unusual physical standards of height and odd requirements of Nordic appearance were set up and the political and ideological background of every "elite" candidate was carefully scrutinized. It is highly significant that we have proof of insistance on racial and ideological qualifications as late as 1943, even in the Waffen SS. 43/ It has been argued that because some men were conscripted into the Waffen SS in the last desperate stages of the war, the organization as a whole was not a voluntary one. Those who were actually forced into divisions of the Waffen SS may have an adequate defense in subsequent hearings, but we insist that compulsion born of a frantic effort to stave off defeat in the closing hours of the war does not change the essentially voluntary aspect of the membership as a whole. Whatever pressures may have been exerted to expand the membership of this organization, it originated and remained basically voluntary and selective.

The SD as a part of the SS was composed of SS men with special qualifications. The deeds of this organization best explain the nature of these special qualifications for the record in this case is replete with horrible tales of their doings. The SD man was simply a surcharged SS man. If the membership of the SS was basically and fundamentally voluntary, then it follows automatically that the SD membership was likewise voluntary.

The Gestapo was at all times a State organization, a branch of the government similar in all usual respects to other branches of the government. In considering the voluntary character of its membership, all other considerations are secondary to this basic determination of the Gestapo as an agency of State. If membership in the Gestapo was compulsory, membership in the Order Police, and in the Department of Safety, and in the Department of Finance must have been compulsory. When the Gestapo was created, following

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42/ Doc. 1992-A-PS, USA 439, Tr. p. 1810
43/ Doc. 2768-PS, USA 447, Tr. p. 1818

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the seizure of power, it is true that many members of the previously existing political police system of the various Laender were transferred to it. But they were under no legal compulsion to join. As the Gestapo affiant Losse stated, "If they had refused, they would have had to reckon with a dismissal from the service without pension so that unemployment would have threatened them". 44/ The witness Schellenberg stated that new members of the Gestapo were taken on a voluntary basis. 45/ Any one of them could have resigned and sought employment in other branches of the Government. The witness Hoffman, in testifying before the Commission, stated that he applied for a job in three branches of the Government of which the Gestapo was one. 46/ The Gestapo accepted his

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44/ Gestapo Affidavit No. 30, Tr. p. 15856, 15860
45/ Doc. 3033-PS, USA 488, Tr. p. 1907
46/ Comm. Tr. p. 1940

application and in that way he became a member of the organization. There was nothing to prevent a Gestapo official from resigning his position if the aims and activities and methods of the organization became repugnant to him. The witness Tesmer testified before the Commission that if an officer refused to carry out a criminal order he probably would be removed from his employment.47/ Even after the war began, when all Governmental officials were more or less frozen in their positions, members of the Gestapo were able to resign. The witness Tesmer himself resigned from the Gestapo during the war,48/ and the witness Straub testified that a person could resign his position in the Gestapo at the risk of going to the front in active military service.49/ Surely this was not compulsion in any legal sense. The sacrifices which members of thepolitical police might face upon resignation, such as loss of seniority and forfeiture of pension rights may have seemed decisive to those who remained in the Gestapo, but such considerations could under no circumstances be construed as legal compulsions justifying continued membership in an organization of such notorious criminality. Theremay be particular instances where some members of the army secret field police were later transferred from the military to the Gestapo. In such instances, these individuals may have gained on thebasis if military orders a personal defense to the crimes committed by the Gestapo during the period of their membership. But such special instances justiciable in subsequent proceedings, can in no way affect the basic character of the Gestapo as a single department of the Government with no greater degree of compulsion to join and no greater legal restraint from resigning then any other department of the State.

It takes character to stand up against great evil -- this has always been so. It may be necessary for a man to brave some humiliation and some sacrifice, in order to refuse to do the evil bidding of an evil master. But responsibility for the crimes of these organizations should not be evaded by the application of a dry, technical or meaningless concept of compulsion.

47/ Comm. Tr. p. 2114
48/ Comm. Tr. p. 2108
49/ Comm. Tr. p. 1587

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III. The Criminal Activities of the Five Organizations.

From the establishment of the Nazi Party in 1920, until the conclusion of the war in 1945, these organizations were used by the conspirators for theexecution of their schemes and each committed one or more of the crimes described in Article VI of the Charter and participated in the general conspiracy. The Leadership Corps was the first of the organizations to appear on the stage. The next step was the creation in 1920 of a semi-military organization, the SA, to secure by violence a predominant place for the Party in the political scene. Out of this group, the more select and fanatical SS was formed in 1925, to replace the SA while the latter was banned, and then to join with it in laying the groundwork for the revolution. Upon the seizure of power in 1933, the next organization, the Reich Cabinet, took its place in the conspiracy. With the Government in their hands, the conspirators hastened to suppress all potential opposition, and to that end they created the Gestapo and the SD. Internal security having been guaranteed, they then obtained for promotion of their plans of aggrandizement the last of their implements in the form of the military.

Each of these was necessary to the successful execution of the conspiracy -- the Leadership Corps to direct and control the Party through which political power had to be seized; the SA and SS to oppose political opponents by violence and, after 1933, to fasten the Nazi's control on Germany by extra-legal activities; the Cabinet to devise and enact the laws needed to insure continuance of the regime; the Gestapo and the SD to detect and suppress internal opposition; and some servile soldiery to prepare and carry out the expansion of the regime through aggressive war.

Each of the organizations continued to play a necessary and vital part at all times throughout the conspiracy. The program of the Nazi

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regime stemmed from the Nazi Party. As Hitler said in 1933, 50/ "It is not the State which gives orders to us, it is we who give orders to the State." And again in 1938 Hitler stated, 51/ "National Socialism possesses Germany entirely and completely since the day when, five years ago, I left the house in Wilhelmplatz as Reich Chancellor .... The greatest guaranty of the National Socialist revolution lies in the complete domination of the Reich and all of its institutions and organizations, internally and externally, by the National Socialist Party." It was the Leadership Corps that formulated the policy of that Party. It was the Leadership Corps that held the Party together. It wasthe Leadership Corps, through its descending hierarchy of fuehrers, down to the Blockleiter who controlled forty households, that kept a firm grip upon the entire populace. Every crime charged in the Indictment was a crime committed by a regime controlled by the Party, and it was the Leadership Corps which controlled the Party and made it function.

While the Party, through the Political Leaders, gave orders to the State, it was the Reich Cabinet -- the law-making, executive and administrative representative of the State -- that transformed these orders into laws. Just asthe Leadership Corps made the Party function, so the Cabinet made the State function. Every crime which we have proved was

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50/ Doc. 2775-PS, USA 330, Tr. p. 1612
51/ Doc. 2715-PS, USA 331, Tr. p. 1618

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a crime of the Nazi State, and the Reich Cabinet was the highest agency for political control and direction within the Nazi State.

But policy and laws are not enough. They must be put into effect and carried into operation. The four other organizations were the executive agencies of the Party and the State. When it was a question of enforcing laws, of detecting, apprehending, imprisoning and eliminating opponents or potential opponents, the SD, the Gestapo, the SS and the machinery of concentration camps came into play. The close relationship between the SD and the Gestapo and the importance of the former in selection of Nazi officials is disclosed by the defense affidavit of Karl Weiss who averred that all political police officials were screened by the SD before being accepted into the Gestapo.52/ And the SD violated the integrity of German elections by reporting how the people voted in secret ballots. 53/ Special units of the SA were used to supplement the police in arresting communists and, in the course of interrogations, men were beaten to death. Such brutal conduct was consistently excused by decrees of amnesty under which the purposes by the participants were alone decisive. 53-A/ When the policy called for war, the paramilitary organizations like the SA and SS laid the foundation, and top militarist prepared the plans for a powerful German Army. When it became a question of exterminating the population of conquered territories, of deporting them for slave labor and confiscating their property, the OKW and the SS had to plan joint operations and, in collaboration with the Gestapo, to carry them into effect. Thus, the Party planned, the Cabinet legislated, and the SS, SA, Gestapo and the military leaders executed. The manner in which this was done can be illustrated by taking up a number of the principal crimes alledged in the Indictment and showing how the five organizations participated in the commission of each crime.

The basic program for aggression is to be found in the Nazi Party program of Twenty-five points proclaimed by Hitler in 1920 and declared unalterable. 54/ It included demands for the unification of all Germans in Greater Germany, for the abrogation of the treaties of Versailles and St. Germain, for land and colonies and for the creation of a national Army.

52/ Gestapo Affidavit No. 15, Tr. p. 15856/7
53/ Doc. R-142, USA 481, Tr. p. 1905
53-A/ Doc D-923-G-B615 Tr. 15721
Doc D-936-G-B616 Tr. 15726
54/ Doc 1708-PS USA 255, USA 324, Tr. pp 1606/7

As the Party Manual shows, 55/ this platform was the table of commandments, and from it was drawn the dogma for every Political Leader. All members of the Leadership Corps bound themselves to follow these precepts and to spread this doctrine.

As early as April 1933, the Cabinet, by resolution, created the Reich Defense Council, a body of cabinet members whose function was to prepare the nation for war. 56/ In October 1933, the Cabinet proclaimed Germany's withdrawal from the League of Nations and the Disarmament Conference. 57/ A year and a half later, in March 1935, it reestablished the Wehrmacht and provided for compulsory military service. 58/ Its war planning measures were carried further by its enactment in May 1935 of a secret unpublished Reich Defense Law, providing for the appointment of a plenipotentiary-general for war economy with sweeping powers, and its decision that the plenipotentiary should begin his work at once, even in peace-time. 59/ In February 1938, on the eve of the seizure of Austria, a second component of the Reich Cabinet, the Secret Cabinet Council, was created to advise Hitler in conducting foreign policy. 60/ And it was the defendant von Neurath, the President of that council who took diplomatic steps to justify and excuse this aggressive action. 61/ After the seizure had been accomplished, it was the Cabinet which provided for the reunion of Austria with the Reich. 62/ Six months later, in September 1938, by another secret and wholly unpublished law 63/ the Cabinet provided for a three-man college of plenipotentiaries whose function 64/ was to have prepared at all times complete plans and ready measures for the sudden and not-to-be-declared war. In November 1938, it was a Cabinet law which provided for the integration of the Sudetenland with Germany, 65/ and in March 1939 for the incorporation of Memel into Germany. 66/ The Tribunal will remember the dramatic meeting of the Reich Defense Council held in June of 1939 where preparations were completed for the coming war and detailed plans were approved such as using prisoners of war and concentration camp inmates for war production. compulsory work for women in war time, and the bringing of hundreds of thousands of workers from the Protectorate to be housed together in hutments.

62/ Doc. 2307-PS GB 133, Tr. pp 586 and 1720 (RGBl,Part 1, p. 237)
63/ Doc 2194-PS USA 36, Tr. pp. 410, 1700 and 1727
64/ Doc. 2986-PS USA 409 Tr.pp 1728/9
65/ RGBl, 1938, Part 1, p 1641, Tr. p. 1721
66/ RGBl, 1939, Part 1, p 559, Tr. p. 1721

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67/ In August 1939, on the eve of the attack on Poland, the Ministerial Council for the Defense of the Reich, the third component of the Reich Cabinet, was created out of members of the Cabinet to act as a smaller working group in the exercise of legislative and executive wartime powers. Thereafter, it was this component of the Reich Cabinet, rather than the ordinary cabinet, which enacted most of the legislation for carrying on the war, but with the knowledge and participation of the entire membership of the ordinary Cabinet.

67/ Doc. 3787-PS, USA 782, Tr.pp. 12875/86

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While the Cabinet was thus preparing the legal and administrative framework for aggression, the other organizations were actively engaged in related preparations to the same end. An aggressive militaristic psychology on the part of the people and the building up of a powerful army were essential to prepare the nation for war. To the attainment of these ends, the SA assiduously devoted itself. First in 1933 by engaging in an intensive propaganda campaign demanding colonies, Lebensraum, the abrogation of the Treaty of Versailles, falsely attributing aggressive designs to Germany's neighbors and generally spreading the now well-known party bromides. 68/ Almost simultaneously, it organized a trainin program for German youth in the technique of modern war, at first, in dark secrecy but finally in the open when it felt itself sufficiently prepared and was sure of no outside interference. 69/ But the SA did not confine itself to mere preparations. When the first aggressive action, that against Austria was taken, units of the SA marched through the streets of Vienna and seized the principal government buildings, 70/ and in the plans for the seizure of the Sudetenland, the SA formed a part of the Henlein Free Corps and furnished it with supplies and equipment 71

The activities of the SS were similar to the SA and even more wide-spread, 72/ Like the SA, it served as a para-military organization in the years preceding 1939. Like the SA, it partici pated in the aggression against Austria and in the conspiracy to undermine Czechoslovakia, through the Henlein Free Corps. Its activities are distinguishable from those of the SA in these matters only because it played

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68/ Tr. pp. 1766/70

69/ Tr. pp. 1770/79

70/ Doc. 812-PS, USA 61, Tr. p. 565
Doc. 2949-PS, USA 78, Tr. p. 575
Doc. L-292, USA 78, Tr. p. 586
Quotation from the "SA Mann" Tr. p. 1781

71/ Doc. 3036-PS, USA 102, Tr. pp. 1781/2

72/ Tr. pp. 1864/8

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the more important part. 73/ Its professional combat forces joined with the army in marching into the Sudetenland and Bohemia-Moravia, and in the invasion of Poland. 74/ One of its main departments, the Volksdeutsche Mittelstelle, was a center for fifth column activities. 75/ The SD of the Reichsfuehrer SS operated a network of spies throughout the world and its agents were spying in the United States before Germany declared war upon America. 76/ The largest branch of the SS, the Waffen SS, was created and developed for the sole purpose of carrying on the war and participated, as an SS army, in all phases of the war in the East and in the West. 77/ Its shameful record of war atrocities needs no amplification here. The Gestapo and SD were likewise involved in the commission of crimes against the peace. The very incident that served as an excuse for the invasion of Poland, and thus set off the entire war, was executed by the Gestapo and the SD. I refer to the simulated Polish attack on the radio station at Gleiwitz, where concentration camp prisoners were dressed in Polish uniforms, murdered and left as evidence of a Polish raid, so as to afford Hitler a justification for the attack upon Poland. 78/ Of course the professional military clique planned and participated in all aggressions from the militarization of the Rhineland in 1936 to the attack on Soviet Russia in 1941. 79/

The waging of these wars of aggression was possible for Germany only by the utilization of millions of enslaved workers, and the slave labor program was possible only with the assistance of these organizations. Sauckel was the master

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73/ Doc. 388-PS, USA 26, Tr. p. 354
Doc. 2828-PS, USA 114, Tr. p. 900
74/ Doc. 2194-PS, USA 255, Tr. p. 1868
75/ Doc. 2708-PS, USA 95
Doc. 3059-PS, USA 96, Tr. pp. 785 and 790
76/ Doc. 4043-PS, USA 920, Tr. p. 14928
Doc. 4054-PS, USA 921, Tr. p. 15000
77/ Tr. pp. 1868/77
78/ Doc. 2751, USA 482, Tr. p. 907/8; Tr. p. 620
79/ Tr. pp. 2129-2173

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slavor but he needed a million party whips to enforce his merciles dictates. The SS, the Gestapo and the SD at his bidding drove the foreign serfs within the Reich borders under the lash of deceit, of kidnapping, or heart-breaking family separations, of arson, of torture and of murder. 80/ 81/ 82/ The Leadership Corps in cooperation with the Nazi labor front and with industrial management were Sauckel's receiving agents for these unfortunate ones. 83/ At the Reich level and at the Gau level members of the Leadership Corps helped arrange for the conditions of bedding, feeding and restraining these wretched humans giving them less attention and less decent concern than primitive man often gave to his brutes. 84/ The Gauleiters functioning as Reich Defense Commissars, at the order of Speer and Sauckel, and under the most revolting conditions of conveyance shunted the slaves from receiving depots to armament industries 85/ where like stanchioned beasts they were submitted to sub-human indignities and worked to death. Medical care and even the most simple medical supplies were refused them. Denied even the social advantages of the barnyard they struggled under less than good stable standards. 86/ With a crassness unknown to ordinary domestic animal care directives providing for the abortion of female laborers were distributed to Gauleiters and Kreisleiters and their staffs. 87/ Their keeps were of the Gestapo and the SD and the cell blocks of the

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80/ Doc. R-124, P. 36, USA 179, Tr. p. 1840
Tr. pp. 1039/44

81/ Doc. 3012-PS, USA 190, Tr. p. 1304

82/ USSR 522, Tr. p. 14956

83/ Tr. p. 10583

84/ Comm. Tr. pp. 8350/4

85/ Tr. p. 12085

86/ Doc. D-288, USA 208, Tr. p. 1322

87/ Doc. D-384, USA 539, Tr. p. 14739,
Comm. Tr. p. 2006

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concentration camp awaited anyone who chafed under the cruelty. 88/ Urged on by Speer, the Gauleiters utilized prisoners of war for slave labor purposes 89/ and Rosenberg's minions in the Eastern territories under the spur of Sauckel's demands gleaned new millions for thralldom. 90/ The army harnessed thousands for the construction of military fortifications and for military production, 91/ and Keitel carried out Hitler's orders by hitching honorable soldier-war-prisoners to machines that made materials for war. 92/ The greedy Goering sought war prisoners slaves for his air armament industries and suggested new uses for old orders violating recognized codes of warfare, 93/ and his aide Milch, through of the forced use of Russian prisoners of war to man anti-aircraft batteries as comedy relief for the oppressive madness of the times. 94/ Depravity supplanted degradation and death became the declared objective of concentration camp labor establishments under the SS. 95/ 96/. Of necessity all of this went on with high Cabinet approval 97/ as the impact of this whole terrible program created new problems for Germany.

So the slaves suffered in the midst of the German population as thousands of them were farmed out for better or for worse to householders, to great and to small industries. Until, at last, in the closing hours of the conflict, under pressure of the grim necessities of the war situation and solely to increase the war effort, the Nazi Government itself was forced to issue an order to slacken the violence against those who were in chains.

88/ Doc. 3040-PS, USA 207, Tr. p. 1336
89/ Doc. 1435-PS, USA 216, Tr. p. 1346
90/ Doc. 017-PS, USA 180, Tr. p. 1287
91/ Doc. 556-PS, 2 USA 194, RF 35, Tr. p. 1339
92/ Doc. EC-194, USA 2[illegible], R.F. 1445, Tr. p. 1343/4
93/ Doc. 3005-PS, USA 213, RF [illegible], Tr. p. 1342
Doc. 1206-PS, USA 215, RF 50, Tr. pp. 1345/6
94/ Doc. R-124, USA 179, Tr. p. 14467
95/ Tr. p. 1841
96/ Doc. 654-PS, USA 216, Tr. p. 1351
97/ Tr. p. 1709

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who were in chains. The great significance of this order cannot be overstated. By its own terms, it makes perfectly clear that cruelty to theslaves was a state policy carried out by the German people. It is damning evidence against the whole German nation. It is, in our judgement, one of the most important documents in this case. It is shocking to realize that it came from theParty Chancellory and the Reich Security Main Office... both high state agencies; and it was directed, in writing, to all political leaders down to Ortsgruppenleiters, and to the lowest level of German society by word of mouth. 98/

The sweep of the crimes committed against the Jewish people is too great for the human mind to completely grasp. Our mental processes are conditioned by our whole experience in living. We shudder at one bestial murder, we shrink from a few disgusting crimes, but when confronted with mass horror, wefind ourselves groping for adequate reaction. We simply cannot comprehend six million murders. In the regular course of life it is good that this is so; but in weighing the evidence in this case it is something of a handicap for all parties except the guilty. Of some facts, however, we do have full knowledge and full understanding. They are all in evidence before this Tribunal. We know that these indicted organizations all share responsibility for the vast crimes committed against the Jewish people. We know that the evil geniuses of the Nazi plan understood how to nurture a nation for hatred. They began easily by having the Leadership Corps write into the Party platform that only a member of the race could be a citizen. 99/ Thus they laid the groundwork for the basic premise upon which Jews were deprived of human rights in Germany. Then the same Leadership Corps began

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98/ Doc. 205-PS, GB 538, Tr. p. 14738
99/ Doc. 1708-PS, USA 255, Tr. p. 1435

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the work of directing a campaign of abuse against the whole Jewish people. Every man's failure, all worry, each disappointment, any fear, was resolved in the crucible of Jewish responsibility. Throughout the Reich, Jew-baiting committees were established under the direction of various political leaders. 100/ And led by Gauleiter Streicher, Party members engaged in open violence against Jews and their property by destroying the synagogue here in Nurnberg. 101/ Then came the hideous occurrences on the night of November 10, 1938 under the incitement of Party propaganda leader Goebbels and with the open assistance of the Leadership Corps and the SA. 102/ To add mockery to malefaction, the Nazis set up a supreme party court to investigate these outrages and although it found that instructions for carrying out these pogroms had been telephoned by the Gauleiters to their subordinate leaders, it ruled that in the killing of Jews without orders or contrary to orders: "at heart the men were convinced that they had done a service to their Fuehrer and to their Party." Under the guise of this judicial hypocrisy, none of the participants was so much as expelled from the Party. 103/

Throughout the years, as this hate movement progressed, all manner of discriminatory legislation was enacted to restrict the mobility of the Jew, to impoverish him, and to degrade him. Great numbers of these legislative monstrosities, all the creations of the Reich Cabinet, are in evidence in this record. 104/ With quickened pace the Nazis moved to new cruelties and from a mixed-up policy which demanded the departure of the Jew and called for his detention in German concentration camps, they approached the depths of shame in a Reich Cabinet proposal for the sterilization

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100/ Tr. pp. 14717/8
101/ Doc. 1724-PS, USA 266
Doc. 2711-PS, USA 267, Tr. p. 1443
102/ Doc. 1721-PS, USA 425, Tr. p. 1761
103/ Doc. 3063-PS, USA 332, Tr. pp. 14713/6
104/ Tr. pp. 1439/41

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of even half-Jews. In a cold setting of sadism and sin, the Reich Cabinet reviewed the manner in which half-Jews were to be treated and then recommendations of the Cabinet were submitted to Hitler for final action. 105/ The SA men were among the first to apply direct force and brutality against the Jewish people in Germany. The witness Severing has told the Tribunal from the witness stand that during the years after 1921 the SA engaged in organized terror against the Jews. 106/ These street ruffians, having nearly completed their orgies against ordinary political opponents, now found new uses for their clubs and whips and new outlets for their perverse propensities. Any Jew was fair game and it wasopen season the year round for Jew-hunting. They smashed into private homes and abused the terrified Jewish inhabitants without any pretense of cause or provocation. 107/ And they interlaced their physical violence with their constant tirade of slanderous anti-Jewish propaganda. 108/

The oppression, persecution, discrimination and brutality at the hands of the Leadership Corps, the Reich Cabinet and the SA were only the beginnings of the dreadful fate that the Nazis prepared for the Jews. In this fashion, the way was paved for the sinister activities of the Gestapo when it came into play. Now these secret policemen moved in with their wraith-like methods. Trembling Jews were hauled from their beds in the middle of the night and dispatched without semblance of accusation to concentration camps, 109/ and often their family members awoke to find them missing. Thousands of Jewish people so disappeared never to be seen

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105/ Doc. 1055-PS, USA 923, Tr. p. 15013
106/ Tr. p. 14084
107/ Doc. 1759-PS, USA 420, Tr. pp. 1754/8
108/ Tr. pp. 1763/4
109/ Doc. 3058-PS, USA 508, Tr. p. 1954

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or heard of again and all over Europe today surviving family remnants with aching hearts are seeking clues or indications of the fate that befell them. Sad to relate, the only answer to most of the searching is to be found in the records of this Tribunal, in the captured documents of the SS, the SD and the Gestapo, and in the death books of the gas chambers, the mass graves and the crematoria.

By this time the Nazis were astride much of Central Europe. Wallowing in their early bloody successes and puffed up with premature confidence in their ability to dominate the continent, they dropped all sham about the Jew in Germany and laid bare his ultimate doom. The Jew was to be wiped from the face of Europe -- not by migration, not by mass movement, but by annihilation. It was Goering who ordered Heydrich as chief of the security police and SD to work out a "complete solution" of the Jewish problem in the areas occupied by the Reich. 110/ And it was Heydrich, as chief of the Security Police and SD and acting upon Goering's order, who instructed the Gestapo to murder all Jews who could not be used for slave labor. Gestapo men, under the leadership of Eichmann, went into the occupied territories and, with the assistance of local officers of the Security Police and SD, succeeded in herding virtually all of the Jews of Europe into concentration camps and annihilation centers. 111/ With unabated fury the Nazis plunged from Goering's "complete solution" to Himmler's "final solution". This was the last responsibility and who but Himmler as head of the SS could fulfill this unholy mission. In his foul hands and those of his SS was placed the assignment for the complete destruction of the Jew. He warmed to his task. His SS men, having been tested and proved in the Warsaw Ghetto 112/ and in the clearing of the Jews from Galacia 113/, were ready for the refinements of the extermination plants. And with Hitler's order to Himmler, SS exterminator Hoess opened the largest murder mart in history. 114/

110/ Doc. 710-PS, USA 509, Tr. p. 1955
111/ Testimony of Dieter Wisliceny, Tr. p. 2055-2078
112/ Doc. 1061-PS, USA 275, Tr. pp. 1449
113/ Doc. L.18
114/ Tr. p. 7787

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Two thousand human beings at a time perished in his modern slaughterhouse. All over German-occupied Europe SS plants of the Hoess-Auschwitz design gassed living Jews with dispatch and destroyed their remains in ovens streamline for mass operation. Thus the SS made it possible for Himmler to declare in his speech at Posen: 115/

"I also want to talk to you quite frankly on a very grave matter.. I mean the clearing out of the Jews, the extermination of the Jewish race... this is a page of glory in our history....."

At the close of the war in Europe, an incredulous world recoiled from the fact of this crime -- a crime that can never be completely understood, completely explained, or properly requited. Slowly mankind moved to its sad and sober acceptance. But this was not the end, for the Nazis, through propaganda conduits, had piped their racial and religious poison into most of Europe and to a large part of the world. To restore the moral health of Central Europe is not enough, seepage from Nazi sewers of slander has polluted many of man's Pierian springs and the virus of hate and bigotry and intolerance has fouled the waters. It will take generations of mental and moral sanitation to stamp out this Nazi plague. Thus the crime lives after the criminals -- these defendants and these organizations.

The transition from mistreatment of political opponents, of racial and religious groups to the abuse and the killing of prisoners of war in violation of the rules of warfare was not difficult for the members of the indicted organizations. These offenses were the result of the aggressive war aims for which the Reich Cabinet had a direct responsibility. 116/ The history of mistreatment of honorable soldiers who had surrendered is too well-known to this Tribunal to require detailed discussion here. Yet it is worthwhile to recall to mind that Reichleiters Goebbels and Bormann, speaking for the Leadership Corps of the Nazi Party, were those who instituted the policy of lynching allied airmen by the German populace. 117/

115/ Doc. 1919-PS, USA 170, Tr. p. 1864
116/ Supra, page 19
117/ Doc. 1676-PS, USA 334, Tr. p. 1625
Doc. 057-PS, USA 329, RF 1420, Tr. p. 1627

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This savage policy was carried out by the Leadership Corps of the Nazi Party, 118/ while, at the same time, military units of the SS wantonly executed prisoners of war on every battlefield. To the Gestapo and the SD was given the first responsibility for carrying out the barbaric Hitler order of October 18, 1942 and its subsequent amendments calling for the summary execution of allied commandos and paratroopers. 120/ Nor should it be forgotten that throughout the war the Gestapo screened prisoner-of-war camps for Jews and those of the Communist political faith who were then deliberately murdered. 121/ The Tribunal will recall the document concerning the screening of prisoner-of-war camps introduced in the later stages of the trial which proved conclusively that local Gestapo offices at Munich Regensberg, Furth and Nurnberg screened prisoner-of-war camps in Bavaria for classes of prisoners of war to be sent to Dachau for liquidation by SS guards, and that these Gestapo offices were criticized by the High Command for failure to screen as effectively as the High Command desired. This crime has been carefully avoided by counsel in pleading the case for the implicated organizations. It is one of the clearest cases of willful premeditated murder of prisoners of war in violation of established international law. It is positive demonstration of the complete savagery of the responsible organizations with respect to the treatment of prisoners of war. 121-A/ The infamous Bullet Decree under which the Gestapo sent re-captured officer prisoners of war to Mauthausen Concentration Camp for execution by SS guards is additional proof of the criminal character of these organizations. 122/

118/ Doc. L-154, USA 335, Tr. p. 1627/8
119/ Doc. 2997-PS, USA 472, Tr. p. 1876/7
120/ Tr. pp. 1944/5; 1991/2; 2706/10
121/ Tr. pp. 1927/35
121-A/ Doc. NR-178, USA 910, Tr. p. 14851
122/ Tr. p. 1977

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The Nazis always knew that the Christian church was an insurmountable obstacle to their evil intentions, but, with characteristic cunning, they first moved against it under the disguise of necessary emergency legislation, which was enacted by the Reich Cabinet and which laid the groundwork for the later enabling legislation placing all manner of restrictions on usual church activities. This was the first and the decisive step, and once it had been taken, the fate of the Christian church was sealed; only time and the turn of events remained for its fulfillment. In the entire Reich Cabinet of that time, made up almost exclusively of men who pretended to wear the badge of Christianity, only one (Baron Eltz von Rubenach) stood up for the faith.123/ So clear was the intention of the Cabinet decrees, that he had no hesitancy in asserting that Nazism and Christianity could never be reconciled. But for one Eltz von Rubenach, there were many who were willing to play the Nazi game. For a mess of political pottage, they denied their faith and handed to the political leadership its first weapon for use against the clergy. From these first steps, much of the hitherto unexplained moral decadence of the times undoubtedly stems. From these beginnings came the speedily declining influence of the Church. The Nazis wanted it that way. In their political philosophy there was no place for Caesar and for God. Schirach and Rosenberg as Reichsleiters and members of the Leadership Corps, together with countless associates, hammered away at all spiritual forces --- never by a frontal attack but always from the flank, while the hounds of the Leadership Corps carried out systematic slandering of the clergy and constant undermining of sacred religious practices.124/ Soon the anti-clerical campaign was expanded to the confiscation of church properties, and in the later years broke out into open suppression of religious education and even of simple spiritual activities.125/ There can be no doubt as to the real attitude toward the Christian Church for it clearly appears in the organized espionage system instituted against the clergy by the Gestapo and the SD. For this shabby task, members of these two organizations were carefully schooled in a deceitful course of conduct rigged to establish a record, as a later basis, for the complete abolition of

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123/ Doc. R-146, USA 678, Tr. p. 2772
Doc. 101-PS, USA 361, Tr. p. 1657
124/ Doc. D-75, USA 348, Tr. pp. 1637/9 and 14731
125/ Doc. R-146, USA 678, Tr. pp. 1637/9 & 1473
Doc. 101-PS, USA 361, Tr. p. 2772

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the Christian Church in Germany when the war was over. Lying, falsification, and entrapment were fundamental methods for the building up of this fabricate evidence.126/ The Gestapo, not content with breaking up church organizations and prohibiting church groups from social gatherings,127/ or with its task of preparing false testimony, made wholesale arrests of clergymen, placed them in protective custody, and finally lodged them in concentration camps.128/ From a program of such basic evil, it was not to be expected that the SS would remain aloof. Although heavily occupied with wrong-doing all over Europe, it found time to confiscate church properties and monasteries on its own responsibility,129/ and had Catholic priests by the hundreds cruelly murdered in the Dachau concentration camp.130/

So some Christians and numberless Jews were united in a community of suffering. And thus in a strange arrangement of circumstances, the Nazis who tried to destroy both, may have founded the beginnings of an understanding that can grow best because it has survived the worst.

The concentration camp was the master weapon in the Nazi arsenal of tyranny. To the SA belongs the disgrace of having first established and maintained such camps to which it sent persons whom it had illegally arrested. Even SA meeting places were used for the confinement of potential opponents who were beaten and abused by SA men.131/ SA members served as guards of the state concentration camps during the first months of the Nazi regime, and there applied the technique of brutality which they had acquired in operating their own illegal camps.132/ Although the legal basis for protective custody was the exhorted decree of the Reich President for the protection of the State in 1933 which suspended clauses of the Weimar constitution guaranteeing civil liberties to the German people, the Reich Cabinet soon obliged with ready legislation which made more expeditious and internment of political enemies and other undesirables under the concentration camp system. So interested

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126/ Doc. 1815-PS, USA 510, Tr. p. 1946 et seq
127/ Doc. R-145, USA 745 (Document Book H) Tr. p. 255
128/ Doc. 1521-PS, USA 740 (Document Book H) Tr. p. 255
129/ Doc. R-101(a)(d), USA 358, Tr. p. 1652/4
130/ Doc. 4043-PS, GB 592, Tr. p. 15376
131/ Doc. 1759-PS, USA 420, Tr. pp. 1754 et seq
132/ Doc. 2824-PS, USA 423
Doc. 787-PS, USA 421, Tr. pp. 1758 et seq

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in the establishment of these camps were members of the Reich Cabinet that Frick, Rosenberg and Funk, while serving in that body, inspected the camps.133/ And the Reich Cabinet budget set aside 125 million Reichsmarks for the SS and for the management and maintenance of the concentration camps.134/ In order to achieve domination of the German people, the concentration camp system was placed at the disposal of the Leadership Corps, and it was used [illegible] as a dumping ground for thousands of Jews who were apprehended by the Leadership Corps auspices during the pogroms of November, 1938.135/ As shown by the affidavit of the defense witness Karl Weiss, Gauleiters frequently [illegible] upon the Gestapo to commit political enemies to concentration camps or to prevent their release in proper time.136/

The cooperating military men had a direct interest in the concentration camp system; Soviet prisoners of war were sent to concentration camps to be employed in the armament industries of the Reich,137/ and officers of the OKW worked out with the Gestapo the plans for sending returned Soviet prisoners of war to the concentration camp Mauthausen where they were put to death for honorable attempts to escape from their captors.138/

But the two organizations which were most directly concerned with and implicated in the concentration camp system were the Gestapo and the SS. In the early days the concentration camps were under the political direction of the Gestapo which issued orders for punishment to be inflicted upon the inmates. The decree of 1936 declared that the Gestapo should administer the concentration camps, 139/ but it was the SS which furnished guards from the Death's Head Battalions and ultimately became responsible for all internal administration of the camps. The Gestapo remained the sole authority in the Nazi State empowered to commit political prisoners to concentration camps, although the SD joined the Gestapo in committing Poles who did not qualify for Germanization.140/ The Gestapo sent thousands upon thousands of persons to concentration camps for slave labor and shipped millions of persons to annihilation centers for extermination.

133/ Tr. p. 2604
134/ Doc. 3873-PS, GB 326, Tr. pp. 7436, 7440
135/ Doc. 3051-PS, USA 240, Tr. pp. 1621/3 and 1649
136/ Gestapo affidavit No. 15, Tr. p. 15856/7
137/ Doc. R-124, USA 279, Tr. p. [illegible]
138/ Doc. 1650-PS, USA 246 (RF 1[illegible])
139/ Doc. 2109-PS, Preussische Gesetzsammlung, 1936, p. 22, Tr. p. [illegible]
140/ Doc. R-112, USA 309, Tr. p. [illegible]

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The atrocities committed by the SS within the concentration camps are in themselves adequate to convict the SS as a criminal organization. The witness Hoess testified that toward the end of the war approximately 35,000 members of the Waffen SS were employed as guards in concentration camps.[141]/

141/ Tr. p. 7804

In his never-to-be-forgotten confession in this courtroom he said that in Auschwitz alone during the time he was commandant the SS exterminated two and one half million men, women, and children by gassing and burning, and that another half million died from starvation and disease, and among those killed were 20,000 Soviet prisoners of war.142/ When the SS did not murder bedridden patients they dressed them for labor which they could perform in their beds.143/ It ordered women prisoners to be beaten by other prisoners,144/ and, in its unrestrained savagery killed, maimed, and tortured inmates of concentration camps by carrying out what were called medical experiments, but which were infact sojurns in sadism.

The concentration camp system was the heart of the Nazi scheme for tyranny. Conditions in these camps were cruel, because the Nazis required the force of fear to perpetuate their hold over the common people. Behind every Nazi law and decree stood the spector of concentration camp confinement. The agencies which created, maintained, directed and utilized these camps were the organizations named in the Indictment.

In addition to the crimes of waging aggressive war, persecution of the Jews, forced labor, persecution of the churches, and concentration camps, which have been considered, the indicted organizations participated in many other crimes in aid of the conspiracy. The Leadership Corps was active in destroying the free trade union movement, and the SA took the initial direct action against the trade unionists. The art treasures of Europe were seized and despoiled by the Einsatzstab Rosenberg of the Leadership Corps in conjunction with the Gestapo and the SD.

142/ Doc. 3868-PS, USA 818, Tr. p. 7611
143/ Doc. 1933-PS, USA 459, Tr. p. 1844
144/ Doc. 2189-PS, USA 460, Tr. p. 1845

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The SS carried out the vicious Germanization program under which citizens of occupied territories were driven from their homes and lands to make way for racial Germans. The Gestapo and officers of the OKW conceived and carried out the hellish "Night and Fog" decree, by which hapless civilians of occupied countries disappeared into the Reich never to be heard of again. Thus, in a crime of which only the Nazis were capable, the awful anguish of relative and friend was added to wanton murder.

In no respect can the criminal activities of these organizations be better illustrated than in the murderous work of the Einsatz Groups of the Security Police and the SD, which were first organized by the SD in September of 1938 in anticipation of the invasion of Czechoslovakia. 145/ With their leaders drawn from the SD and the Gestapo and staffed by members of the Waffen SS, they coordinated slaughter and pillage with military manoeuvres, and reports of their activities were forwarded to the political leaders through the Reich Defense Commissioners. Even the SA participated in these jackal anti-partisan expeditions in the East. 146/

When the German armies broke into Czechoslovakia and Poland, into Denmark and Norway, the Einsatz bandits followed for the purpose of striking down resistance, terrorizing the population, and exterminating racial groups. So well did these terror specialists do their work, that four new units were set up before the attack on the Soviet Union, one of them headed by the infamous Chief of the SD, Ohlendorf, who testified in this courtroom, to the incredible brutality of his accomplishments, and to the shocking details of the operation carried out in coordination with branches of the

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145/ USSR 509, Tr. p. 14960, p. 14943
146/ R.-135, USA 289, Tr. pp. 2201/2

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military. His testimony will be remembered for its cold account of callous murder, enslavement and plunder, and most of all for the horrible program of destroying men, women, and children of the Jewish Race. 147/ Mankind will not soon forget his sickening story of the mobile murder of women and little children in gas vans, nor of the evil hardened killers whose stomachs turned at the awful sight when they unlatched the doors of the death cars at Chelmno. 148./ These were the men who sat at the edge of anti-tank ditches, cigarrette in mouth, calmly shooting their naked victims in the back of the neck with their machine pistols. 149/ These were the men who, according to their own corpse accountants, murdered some two million men, women and children. 150./ These were the men of the SD. The organization Chart of the Security Police and the SD now before the Tribunal was prepared and certified to by SD official Schellenberg, 150A / the Chief of Office VI of the RSHA and by SD official Ohlendorf, Chief of Office III of the RSHA. This chart shows that these Einsatz Groups were an integral part of the Security Police and SD under the supreme command of the Defendant Kaltenbrunner and, not, ashas been argued, independent organizations responsible directly to Himmler. The officers of these groups were drawn from the Gestapo and the SD, and, to a lesser extent, from the criminal police. They received their orders from the various offices of the RSHA, that is from Office III or VI as to matters pertaining to the SD and from Office IV as to matters pertaining to the Gestapo. They filed their reports with these offices and these offices made up consolidated reports from which they were distributed to higher police officials and Reich Defense Commissioners, several examples of which have been introduced in the course of these proceedings. 150B/

147/ Doc. L-180 USA 276, Tr. p. 1911
Doc. 2273-PS, USA 487, Tr. p. 1912
Doc. 1104-PS, USA 483, Tr. pp. 1914/5
Doc. 3012-PS, USA 190, Tr. p. 1917
148/ Doc. 501-PS, USA 288, Tr. p. 1920
149/ Doc. 2992-PS, USA 494, Tr. pp. 1922/27
150/ Doc. 2738-PS, USA 296, Tr. p. 1502
150A/ Chart USA-493
150B/ Doc. 3876-PS, USA 808, 3876-PS, Tr. pp. 7751 and 10396
Doc. 3943-PS, USA-864, 3943-PS, Tr. pp. 10365-70
10400-402

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Counsel for the Gestapo argued that the Gestapo was erroneously blamed forthe crimes committed in the occupied territories and that the SS was responsible for them. Counsel for the SS said that the SS was erroneously blamed and that the SD was to blame. Counsel for the SD said that the SD was erroneously blamed and the Gestapo was really to blame. The counsel for the SS said that the Gestapo also wore the feared black uniform and that therefore Gestapo men were frequently mistaken for SS men. Counsel for the SS blamed the Gestapo for the running of the concentration camps, and counsel for the Gestapo blamed the SS. The fact is that all of these executive agencies participated in the commission of these vast crimes against humanity. Counsel do not point to any agencies other than those indicted here as the guilty organizations; the defense of each organization has been simply to fasten the responsibility on one of the other indicted organizations. The conclusion is irresistible that all of the organizations participated in the commission of the great crimes.

It is a strange feature of this trial that counsel for the respective organizations have not sought to deny these crimes but only to shift responsibility for their commission. The military blame the Political Leaders for initiating wars of aggression; the Gestapo blames the soldiers for the murder of escaped prisoners of war; the SA blames the Gestapo for concentration camp murders; the Gestapo blames the Leadership Corps for anti-Jewish pogroms; the SS blames the Cabinet for the concentration camp system; and the Cabinet blames the SS for exterminations in the East.

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The fact is that all of these organizations united in carrying out the criminal program of Nazi Germany. As they complemented each other it is unnecessary to define as a matter of precise proof the borders of their own deviltry. When the Reich Cabinet promulgated the decree for "securing the unity of the Party and State," it insolubly bound these organizations for good and for bad. When the membership of these organizations swore an indissociable oath of obedience to Hitler, they united themselves for all time with him, his work, and his guilt.

IV. The Criminal Aims and Methods of Each of the Organizations Were Known or Should Have Been Known to the Membership.

All members of the Reich Cabinet had full knowledge of the functions and activities of the Cabinet. They carried out their work together. They met as a body. They considered proposed measures as a group, and they acted as a Cabinet. Sometimes they met as the Reich Cabinet, sometimes they met as the Reich Defense Council. But in every case they jointly considered proposed legislation and enacted the laws which gave the rubber stamp of legality to the machinations of the top conspirators. From the budgetary matters of the Reich alone, if from no other source, the members of the Cabinet, each year of the Nazi regime, were of necessity informed to a very extensive degree on all matters that were going on in Germany. They knew about the concentration camp system because they voted the money for maintenance of concentration camps 151/ and because their ministers inspected concentration camps. 152/ They knew about the plans for aggressive war because they laid the legislative groundwork

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151/ Doc. 3873-PS, GB 326, Tr. p. 7436/40

152/ Tr. pp. 2603/4

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for the war economy. They knew about the forced labor of prisoners of war in armament industries because they planned it even in advance of war. They prepared the political blueprints for the entire program of aggression and of aggrandizement. Planning requires consultation, and consultation imparts knowledge.

Any member of the SA who could read had full knowledge of the aims and objectives of the SA. The weekly periodical, the SA Mann, and the monthly periodical, the SA Leader, stated time and again the purposes, objectives, tasks and methods of the SA. 153/ The duties and activities of the SA in fighting in the streets, abusing political opponents, and in chastising Jews are stated in every issue of these publications. The para-military nature of the organization was self-evident. The SA participated in election proceedings, in the plan to set fire to the Reichstag, 155/ in anti-Jewish pogroms and boycott activities. 156/ Its activities were widespread and well-known and its criminality was open and notorious. Much of this infamy was commonly known throughout the world. Indeed Dr. Wilhelm Hoegner, the Prime Minister of Bavaria, stated by way of affidavit: "The gross excesses of the SA and SS in the service of the NSDAP were accomplished so publicly that the whole populace knew of them. Everyone who entered these organizations as a member knew of such excesses" 156A/ It is stretching reason and experience too far to believe that SA members in Germany know less than non-members abroad.

The Political Leaders dealt in information and in propaganda. They were the agents of the ideology and the political detectives who checked on the reactions of the people. Knowledge for them was a two-way circuit. They

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153/ Doc. 3050-PS, USA 414-415-416-417-418, Tr. pp. 353/6
154/ Doc. 2168-PS, USA 411 (Doc. Book "Y") Tr. p. 1732
155/ Tr. p. 8418
156/ Tr. p. 10084
156A/ Doc. D. 930, GB 617, Tr. p. 15740

knew the plan and its operations and they learned of its effects. A typical example is found in the order to lynch Allied airmen. This order had to be passed throughout the Leadership Corps in order to reach the lower echelons who were to carry out the lynchings. They saw to it that the order was carried out and they made reports on its effectiveness. There were no secrets in any Nazi cell or block unknown to them. The turn of a radio dial--the facial expression of disapproval--the inviolate secrets between cleric and suppliant--the ancient trust between father and son--even the sacred confidences of marriage--were the stock in trade. Knowledge was their business.

Every member of the SS took an oath of obedience unto death to Hitler and every member of the SS was indoctrinated in the full meanings of Hitlerian ideology. In 1936, Himmler, in describing the SS as an anti-Bolshevistic Fighting Organization openly stated: "We shall take care that never again Germany, the heart of Europe, will the Jewish-Bolshevistic revolution of sub-humans be able to be kindled either from within or through emissaries from without. "157/ Can it be doubted that SS men understood the meaning of those words? Or of Himmler's confession: "I know that there are some people in Germany who become sick when they see these black coats. We understand the reason for this and do not expect that we shall be loved by too many. "158/ The sickness which overcame people when they saw the black coats was the malady of fear--fear of the brutal methods of the SS, the murders they committed on the streets, and the beatings they inflicted in the concentration camps. It was known to everyone that black-coated SS men carried out the murders of 30 June 1934. 159/ Von Mannstein testified that soldiers so feared the evil of the SS that they were afraid to report SS mass killings in the East. 160/ The knowledge that is necessary to bind the SS organization is the knowledge that a member of the Death's Head Battalion had of atrocities committed in the concentration camps, that a member of the anti-partisan bands had of the killings, kidnappings, and plunder that went on behind the fighting lines, that a member of the SS Panzer Divisions had of the killiings of prisoners of war, or that a member of the SS Medical Corps had of the savage experiments on human beings. This knowledge was diffused by frequent changes

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157/ Doc. 1851-PS, USA 440 Tr, p 1792
158/ Doc 1851-PS USA 440 Tr. p 1817
159/ Doc 1950, US.448 Tr,p 1820
160/ Tr. p 15483

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in their duties. The Death's Head Battalions which at first were charged with the guarding of concentration camps inmates subsequently were put into the fighting troops, the Waffen SS, were used for guarding concentration camps and for carrying out exterminations in annihilation centers. The letters SS came generally to be known as the symbol for an organization both sinister and savage.

The objectives of the Gestapo were laid down by law and discussed time and time again in semi-official publications such as the Voelkisher Baobachter, Das Archiv, the magazine of the German Police, and Best's basic handbook on the German Police. Every member knew that the Gestapo was the special police force set up by Goering and developed by Himmler to strike down potential opponents of the tyranny. Every member knew that the Gestapo operated outside the law, that the Gestapo could arrest on its own authority and imprison on its independant judgment. Every member knew that the Gestapo was the agency which filled the concentration camps with political

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opponents. All knew that the Gestapo was organized for the specific purpose of persecuting the victims of Nazi oppression -- the Jews, the Communists, and the Churches. The right to use torture in interrogations had to be known to all who interrogated. There could be no secrecy as to the criminal aims of the Gestapo or the criminal methods by which this primary agency of terror carried out its work. And that it was an instrument of terror was known not merely to the membership -- it was known throughout Germany and Europe, and in every country of the world, where the very name Gestapo became the watchword of terror and fear.

To ask that a common sense and realistic test of knowledge be applied by the Tribunal in judging these organizations for what they are, the most vicious and evil of all Nazi inventions. Surely they shall not escape condemnation for the vast crimes they committed through a false and flimsy defense of ignorance in their own circles. For long, long years after this hall is emptied and for centuries beyond present perspective, the roll call of terror against human kind will be led by these appellations -- Nazi, Nazi Party Leadership, SA, SD, SS, and Gestapo.

V. <u>There is in the Dock a Representative Member of Each Organization Guilty of Some Act on the Basis of Which the Organization May be Declared Criminal.</u>

The Charter requirement that there be a member of each organization in the dock who is guilty of an offense relating to the organization of which he is a member was for the purpose of insuring that there would be present before the Tribunal someone who could speak for each organization. The great number of witnesses who have appeared before the Commission and the Tribunal on behalf of the organizations has, in effect, made superfluous this Charter protection to the organizations. Over 300,000 members of these organizations have been heard either in person or by affidavit.

The measure of criminality of each organization is not limited to the acts committed by the defendant in the dock who was a member of the organization. It is wholly sufficient to meet the Charter requirements if the defendant member is guilty of some crime relating to his position as a member of the organization. In every case the criminality of the named organizations is based upon evidence which greatly surpasses the specific criminal acts of the defendants. The concept of membership stated in the Indictment

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in this connection is in no sense a technical one. The word representative might as well have been used since the object of the provision was to insure that there would be some defendant qualified to speak for, or otherwise represent each of the named organizations.

Seventeen of the twenty-two individual defendants were members of the Reich Cabinet. All of these defendants participated to greater or lesser degree in the meetings of the Reich Cabinet, of the Secret Cabinet Counsel, and of the Reich Defense Council. All of them considered, acted upon, and participated in the enactment of the legislation which led to the instigation of wars of aggression and the commission of discriminatory acts against racial minorities. The criminality of each of these defendants is founded in part upon his participation in the supreme legislative body of the Nazi system, the Reich Cabinet.

Ten of the individual defendants were members of the Leadership Corps. The activities of Gauleiters von Schirach and Streicher are illustrative of the criminality of all of these defendants in their capacity as leaders of the Nazi Party. It was as Gauleiter of Franconia that Streicher carried out his venomous campaign against the Jews and it was as Gauleiter of Vienna that Schirach exploited slave labor.

Nine of the defendants were SS members. It is hardly necessary to go beyond SS Obergruppenfuehrer Kaltenbrunner as a representative of this organization. Here is a defendant who was the head of the most powerful department in the entire SS, the Reich Security Main Office. His activities in directing this organization need no amplification. His shame disgraces all.

Eight of the defendants were members of the SA, of which Goering assumed command in the year 1923 at the very inception of the Nazi struggle for power. It was Goering who directed the SA in the Munich Putsch and it was Goering who built and made of the SA a fighting body of street rowdies.

Goering and Kaltenbrunner were members of the Gestapo. Goering, the founder of the Gestapo, bragged that every Gestapo bullet fired was his bullet, and that he assumed full responsibility for the acts of the Gestapo and was not afraid to do so. As chief of the Reich Security Main Office, Kaltenbrunner had direct responsibility for the Gestapo. The Tribunal has seen orders for commitments to concentration camps carrying his typed or facsimile signature, it has reviewed evidence that executions in concentration camps were issued in his name, and it has examined many criminal orders from him as Chief of the Security Police and SD to regional Gestapo offices.

The integration of defendants and organizations is further demonstrated by the fact that most of the defendants were members of more than one of the named organizations. Frank, Frick, Goering, and Bormann were members of four. Cabinet members Ribbentrop and Neurath were SS generals. SA Generals Rosenberg and Schirach were Cabinet members. Gauleiters Sauckel and Streicher were SA generals. Field Marshal Keitel and Admiral Doenitz were Cabinet members. The complete significance of this integration is shown in the sinister murder of the French General Mesny. This murder was directed and planned by SS Obergruppenfuehrer Kaltenbrunner, as head of the Gestapo and SD, and by SS Obergruppenfuehrer Ribbentrop, as a member of the Reich Cabinet. Kaltenbrunner worked out the mechanics of the murder

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and Ribbentrop worked out the plan of deception.161/ Counsel for the Gestapo argued that the murder was accomplished by the Reich CriminalPolice rather than by the Gestapo since at the time Panzinger, who worked out the details, had succeeded to the duties of Nebe as Chief of Office V of the RSHA. But there is nothing to show that Panzinger relinquished the post he had held for years as head of the department in the Gestapo responsible for special actions and assassinations. The murder of General Mesny was a political action, a matter under cognizance of the Gestapo, not of the Criminal Police.

If it is contended that this nefarious episode was an act of reprisal then I ask the Tribunal to bear in mind that reprisals against prisoners of war are expressly forbidden under the 1929 Convention to which Germany was a signatory. The whole macabre tragedy, from the faked removal of Mesny from the officers' prisoner-of-war camp at Koenigstein to the sacrilegious ceremony attending the burial of his ashes with military honors at Dresden, required the connivance and action of the Reich Cabinet, the military men, the SS, the SD, and the Gestapo. Throughout this particularly sad and sordid episode there is evident the outstanding fact of all Nazism -- hypocrisy. This was white collar homicide, custom built for deceit, starched up with foreign office formality, bearing the cold sheen of Kaltenbrunner's SD and Gestapo, and supported and sustained by the outwardly respectable yoke of the professional army.

161/ Doc. 4048-PS, USA 914
Doc. 4049-PS, USA 912
Doc. 4050-PS, USA 911
Doc. 4051-PS, USA 915
Doc. 4052-PS, USA 913
Tr. pp. 14855/9

MR. PRESIDENT: Counsel for the defendant organizations have each taken a large part of their time in arguing the legal principles which derive from the Charter, and, in many cases, seek to go behind the Charter itself. They have argued that the procedure envisioned by the Charter amounts to collective punishment, that the idea of fastening criminality on organizations is unique in law and that the maxim "nulla poena sine lege" is being violated by these proceedings. I shall not review the legal arguments on this subject since they were exhaustively covered by Justice Jackson in his address in February. But I do assert again that we are not here seeking a collective condemnation of individuals; we are seeking to establish one thing--and one thing only, that these organizations which taken together fastened the police state upon Germany and perpetrated these crimes, shall be characterized in history for what they were--organizations the aims, purposes, and actions of which were basically criminal and which openly violated all tenets of decency and law held in every civilized society. Defense Counsel argue that if you declare these organizations criminal, the members will become martyrs. I say that if you exonerate these organizations, the members who took vows of unconditional obedience to Hitler and to Himmler and who committed millions of people to concentration camps, mistreated and starved and murdered thousands more in the names of these organizations, will say: "We are vindicated. What Hitler and Himmler told us was the truth. These organizations to which we gave our unconditional obedience were not criminal organizations and we are not to be censured for having belonged to them." They will find in your acquittal of these organizations justification for these horrible crimes and the opportunity for reviving them in one form or another to inflict again upon the civilized world the terrible consequences of criminal group action.

Reference has been made in the argument to the Sedition Act of 1940. This Act was not cited, as was suggested, to establish an identity of legal situations between the Act and the Charter of this Tribunal. It was cited only to show that the concept of organizational criminality is not foreign to Anglo-American jurisprudence. Under the Sedition Act, each person indicted has the opportunity of resisting in court the charge of criminality of the organization to which he is accused of belonging. But that is not

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to say that, apart from constitutional questions which are inapplicable here, the Congress of the United States could not provide, as in this Charter, that the criminal character of the organization should first be litigated in a general proceeding in which all members are given a chance of appearing in person or by representation, reserving their personal defenses to subsequent trials in which they may contest all questions except the single question of whether the organization was criminal. What we seek here is not a criminal conviction of the members of these organizations. Their individual criminality is not an issue before this Tribunal. The only issue is whether the Tribunal shall or shall not declare these organizations to have been criminal.

The very anonymity which the Nazis intended to give to crime by the use of these organizations plagues us to the end of this trial. After these proceedings are concluded, this same organizational anonymity will plague the Allied powers in seeking to bring to book those who are responsible for these terrible offenses. It is a sobering fact that the vast majority of the crimes committed in the names of these organizations must go unpunished. But Nazism must not escape by this route which it rigged for itself; it must not survive in secret and undenounced organizational entities to prepare a new onslaught against civilization. By a declaration of criminality against these organizations, this Tribunal will put on notice--not only the people of Germany but the people of the whole world. Mankind will know: that no crime will go unpunished because it was committed in the name of a political party or of a state; that no crime will be passed by because it is too big; that no criminals will avoid punishment because they are too many.

On February 28, 1946, in this courtroom, the Chief Prosecutor for the United States of America, Mr. Justice Robert H. Jackson made a statement before this Tribunal concerning the criminality of these organizations. That statement represents the attitude of the United States towards these organizations. I can do no better than to remind the Tribunal of it again:

> "In administering preventive justice with a view to forestalling repetition of these crimes against peace, crimes against humanity and war crimes, it would be a greater catastrophe to acquit these organizations than it would be to acquit the entire twenty-two individual defendants in the box. These defendants' power for

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harm is spent. That of these organizations goes on. If these organizations are exonerated here the German people will infer that they did no wrong and they will easily be regimented in reconstituted organizations under new names behind the same program.

"In administering retributive justice it would be possible to exonerate these organizations only by concluding that no crimes have been committed by the Nazi regime. For these organizations' sponsorship of every Nazi purpose and their confederation to execute every measure to attain these ends is beyond denial. A failure to condemn these organizations under the terms of the Charter can only mean that such Nazi ends and means cannot be considered criminal and that the Charter of the Tribunal declaring them so is a nullity."

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Organizations - Closing Speech (Mr. Dodd)
English

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